

# EXHIBIT 23

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GOVERNMENT OF PUERTO RICO

Administration of the Retirement System of Employees  
of the Government of Puerto Rico and the Judiciary

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GOVERNMENT OF PUERTO RICO

Office of Management and Budget

October 14, 2020

**CIRCULAR LETTER NO. 2021-01**

*Retirement Systems Administration*

**CIRCULAR LETTER NO. 012-2020**

*Management and Budget Office*

SECRETARIES, DIRECTORS, AGENCY HEADS, DEPARTMENTS, OFFICES, COMMISSIONS, ADMINISTRATION, ORGANISMS, INSTRUMENTALITIES, PUBLIC CORPORATIONS, AND ANY OTHER GOVERNMENT ENTITY, AND MAYORS, PRESIDENTS OF THE LEGISLATIVE BODIES, COMPTROLLER OF PUERTO RICO, DIRECTOR OF THE OFFICE OF COURTS ADMINISTRATION (“OAT,” *by its Spanish acronym*), AND EXECUTIVE DIRECTOR OF THE ASSOCIATION OF EMPLOYEES OF THE COMMONWEALTH OF PUERTO RICO (“AEELA,” *by its Spanish acronym*).

(Signed)

Luis M. Collazo Rodríguez, Esq.  
Administrator  
Retirement Systems Administration

(Signed)

Mrs. Iris E. Santos Díaz  
Director  
Management and Budget Office

**PROCEDURE TO IMPLEMENT ACT NO. 80 OF AUGUST 3, 2020, KNOWN AS THE  
“ACT FOR THE INCENTIVIZED RETIREMENT AND JUSTICE PROGRAM FOR OUR  
PUBLIC SERVANTS”**

**BACKGROUND**

By virtue of the *Act for the Incentivized Retirement and Justice for Our Public Servants*, Act No. 80 of August 3, 2020 (hereinafter “Act 80-2020”), an Incentivized Retirement Program (hereinafter “Program”) is established whereby eligible employees of the Government of Puerto Rico may voluntarily opt for incentivized separation from their employment before retirement age. Likewise, it provides the requirements of years of paid services necessary to qualify for this Program; regulates the time the employee has to exercise the decision to participate in the Program; provides the special incentives that will be granted to the employees who decide to participate in the Program; and the requirements necessary to implement the Program; among other matters.

Act No. 80-2020, *supra*, creates the Program to offer an early retirement opportunity to the employees of the Government of Puerto Rico who entered the Retirement System (hereinafter the “System”) under Act No. 447 of May 15, 1951, as amended, known as the *Retirement System Act for Employees of the Government of the Commonwealth of Puerto Rico* (hereinafter “Act 447-1951”), before April 1, 1990; did not opt to participate in the Retirement Savings Account Program; and have paid a minimum of twenty (20) years to the System as of June 30, 2017.

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Similarly, the Program offers an early retirement opportunity for employees of eligible agencies, pursuant to Article 4(b) of Act 80-2020, who entered the System under Act No. 1 of February 16, 1990, as amended, (hereinafter “Act 1-1990”), between April 1, 1990 and December 31, 1999; had not opted to participate in the Retirement Savings Account Program; and have paid a minimum of fifteen (15) years to the System as of June 30, 2017.

The incentives, both for employees under Act 447-1951 and Act 1-1990, include a lifetime retirement pension equivalent to fifty per cent (50%) of their highest yearly gross remuneration earned during any of the last three (3) prior to the time they enter the Program; a monthly employer contribution of one hundred (100) dollars to the medical plan selected by the participant until age sixty two (62); and the liquidation of sick leave and vacation leave accrued up to the date of separation from service to participate in the Program, in accordance with the caps established by the applicable legislation and regulations, tax free. Likewise, the participants may apply for the disbursement of the benefits from the contributions they have made to the New Defined Contributions Plan, in accordance with the provisions of Article 8 of Act No. 106 of August 23, 2017, as amended, known as the *Act to Guarantee Payments to Our Pensioners and Establish a New Defined Contribution Plan for Public Servants* (hereinafter “Act 106-2017”).

This Program should generate multimillion dollar savings in payroll, both to the general fund and the budgets of the Public Corporations and Municipalities. Most of the estimated savings derive from a reduction in expenditures associated to payroll and may reach an amount of over one billion, four hundred million dollars (\$1,400,000,000.00) in a period of thirty (30) years.

The statute provides that the Director of the Management and Budget Office and the Administrator of the Retirement System will have all the necessary and convenient powers to implement this Act. For that reason, they will prepare the Election Form and other documents, to establish the procedure, terms, and forms to implement the Program.

Pursuant to the foregoing, this norm is promulgated to establish the procedure to immediately implement the Incentivized Retirement Program provided by Act 80-2020, supra. Additional guidelines may be issued to address any subsequent procedure.

## **OBJECTIVE**

In compliance with the guidelines and delegations included in Act 80-2020, this Circular Letter provides the guidelines to immediately implement the Incentivized Retirement Program established in said Act.

## **LEGAL BASIS**

This Circular Letter is issued under part (b) of Article 12 of Act 80-2020, which states as follows:

“The Director of the OMB and the Administrator will have all the necessary and convenient powers to implement this Act. They may require the agencies to take the necessary and convenient steps to implement the Program. They may require the Appointing Authorities to present any information deemed necessary so that

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both the OMB and the Administration are able to evaluate any application. Within the term of fifteen (15) days from approval of this Act, the Executive Director of the OMB and the Administrator will prepare an Election Form and by joint circular letter will establish the procedure, terms, and forms to implement the Program and the provisions of this Act.”

## **APPLICABILITY**

Pursuant to part (c) of Article 2 of Act 80-2020, this norm will apply to all agencies, departments, administrations, offices, commissions, boards, dependencies, instrumentalities, and other entities of the Executive Branch, the Judicial Branch, and the Legislative Branch, Municipality, Office of the Comptroller of Puerto Rico, State Elections Commission, Corporation, or Public Enterprise participating in the System, including the Association of Employees of the Commonwealth of Puerto Rico. It will not apply to those entities and/or employees who participate in other independent retirement systems, such as teachers, judges, and employees of the University of Puerto Rico and the Electric Power Authority.

## **NORMATIVE PROVISIONS**

### **A. Interpretation and definitions**

#### **Section 1. Interpretation of words, phrases, genre, and number**

The words and phrases utilized in this Circular Letter will be construed by their context and pursuant to the laws and caselaw of the Government of Puerto Rico. However, any word or phrase not defined in that context will be interpreted by their ordinary use.

#### **Section 2. Definition of Terms**

- a. *Administration of RSA*: will mean the Administration of the Retirement Systems of the Government of Puerto Rico, as established by Act 447-1951.
- b. *Administrator*: will mean the Administrator of the Retirement System of the Employees of the Government of Puerto Rico, as established by Act 447-1951.
- c. *Agency*: will include any agency, department, administration, board, commission, office, division, dependency, or instrumentality of the Executive Branch, the Judicial Branch, the Legislative Branch, Municipality, Office of the Controller of Puerto Rico, State Elections Commission, Corporation or Public Enterprise participating in the System, including the Association of Employees of the Commonwealth of Puerto Rico for purposes of this Act. It will not include those entities and/or employees who participate in other independent retirement systems, such as teachers, judges, and employees of the University of Puerto Rico and the Electric Power Authority.

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- d. *Years of Service*: will mean the total years during which the participant made contributions to the Retirement System as of June 30, 2017, and said contributions have not been claimed, reimbursed, or attached for application to debts with the System, the Cooperative Bank of Puerto Rico, Savings and Credit Unions, and the Association of Employees of the Commonwealth of Puerto Rico.
- e. *Contribution to the System*: will mean the sum deducted from the participant's monthly remuneration to be sent to the System.
- f. *Appointing Authority*: will mean any Agency head empowered to make appointments for positions in the Government of Puerto Rico.
- g. *Benefit*: will mean the monthly pension to be received by the participant.
- h. *Contribute*: will mean that a contribution has been made or will continue to be made to the Retirement Systems, regardless of the type of account to which the contribution is or has been made.
- i. *Days*: will mean calendar days, unless it is provided that it is business days.
- j. *Election of Retirement*: will mean the voluntary and irrevocable election to become a participant in the Incentivized Retirement Program made by any participant who meets the established Program participation requirements.
- k. *Single Employer*: will mean the Government of Puerto Rico as single employer of every one of the employees of the agencies and public instrumentalities pursuant to the provisions of Act 8-2017, as amended, known as the Human Resources Administration and Transformation Act of the Government of Puerto Rico.
- l. *Effective Date*: will mean the day following the date on which the Program's participant ceases functions as employee.
- m. *Estimated Separation Date*: will mean the date on which the employee separates from employment to become a participant of the Program, to be determined by the Agency in accordance with the service need and continuity of operations.
- n. *Benefit Determination Formula*: formula utilized to determine the pension to be granted to eligible participants who enter the Program, under Articles 7a(1) and 7b(1) of Act 80-2020. It is included as Annex IV of this Circular Letter.
- o. *Election Form*: form included as Annex I of this Circular Letter, whereby an eligible participant may become a participant of the Incentivized Retirement Program. It should be fully completed and signed.

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- p. Fiscal Impact and Savings Form:* form included as Annex III of this Circular Letter and it must be fully completed by the Agencies once the election process of the employee who has been determined as eligible for the Program has ended.
- q. Claim Form:* form included as Annex II of this Circular Letter so that the participant who believes he or she is eligible for the Program, but does not appear in the Register of Eligible Employees, or who does appear but is classified under a law that does not apply, can fully complete it.
- r. Income Received under the Program:* will be equivalent to fifty per cent (50%) of their highest yearly gross remuneration earned during any of the last three (3) prior to the time they enter the Program; the final liquidation of the vacation leave; reimbursement of the contributions made under the *Defined Contributions* system, pursuant to Act 106-2017; and the liquidation of savings with Association of Employees of the Commonwealth of Puerto Rico (“AEELA”).
- s. Retirement Board:* will mean the Retirement Board of the Government of Puerto Rico, created under the provisions of Act 106-2017 to act as the maximum governing entity of the Retirement Systems.
- t. OMB:* will mean the Management and Budget Office ascribed to the Office of the Governor of Puerto Rico.
- u. Participant:* will mean any employee member of the System’s staff, who is in active service, or under a leave authorized by the Agency, [and] holds a regular position as a career employee, a non-career employee, or under a term by law.
- v. Lifetime Retirement Pension:* will mean the pension of fifty per cent (50%) from the remuneration, as legally defined, that the participant who enters the Program will receive pursuant to the provisions of Articles 7a1 and 7b1 of Act 80-2020, and which will be paid by the employer as a part of the regular payroll as frequently as it would be made had the participant remained an employee.
- w. Election Period:* will mean the period of forty-five (45) business days, counted from the issuance of this Circular Letter, that the System participants will have to apply for the benefits of the Program and complete the Election Form.
- x. Implementation Period:* will mean the period the Agency will have available to separate from service the employees who enter the Program, to be computed from the date on which this Circular Letter is issued until the date on which the last participant enters the Program, on or before December 31, 2022.
- y. Phased Plan:* the Agencies, at their discretion and based on the service needs, may establish a phased retirement plan of eligible participants under the Program. However, it should be reasonable and justified in order to not affect the services rendered to the citizens. Said plan will be presented to the RSA, along with the

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*Election Form* and other required documents. A deadline until December 31, 2022 is established to require the retirement of employees included in the Phased Plan.

- z. *Retirement Plan*: every Agency will establish a retirement plan in order to illustrate the reorganization process during the Program's Implementation Period. Said plan will establish: (i) a description of the reorganization measures; (ii) position to be eliminated; (iii) positions projected by the Agency that should be filled; (iv) description of essential tasks of positions that will not be eliminated; (v) identification of positions over which the Agency will exercise the right to retention and period. Said plan may be required by the OMB, the RSA, the Puerto Rico Fiscal Advisory Authority and Fiscal Agency ("AFAAF," by its Spanish acronym), the Office for the Administration and Transformation of the Human Resources of the Government of Puerto Rico ("OATRH," by its Spanish acronym), and/or any other government entity with interest in the matter.
- aa. *Program*: will mean the Incentivized Retirement Program.
- bb. *Register of Eligible Participants*: register to be sent by the RSA to the Agencies participants in the program, whereby the eligible participants who entered the System under Act 447-1951 and Act 1-1990, as applicable, are identified, so that they become participants of the Program, pursuant to the provisions of Act 80-2020.
- cc. *Remuneration*: will mean the highest yearly gross compensation earned by a System participant in any of the last three (3) years prior to becoming a participant of the benefits of the Program. Any bonus granted in addition to the salary and any payment for extraordinary work hours will be excluded from said computation.
- dd. *Essential Services*: will mean those services claimed by every Agency to the RSA must be replaced under the single employer mechanism or any other type of recruitment under Act 8-2017.
- ee. *System*: will mean the Retirement System of the Employees of the Government of Puerto Rico, created by virtue of Act 447-1951.

## **B. In General**

The Program will be implemented in strict compliance with every employment and special law, collective bargaining agreement in force, and with the due respect to the merit principle, the legal provisions that prohibit political discrimination, and the vested rights of the public servants. The employee who opts to participate in the Program will not be disqualified from receiving any marginal benefits he/she is entitled to by virtue of a collective bargaining agreement or any other type of negotiated agreement, subject to the provisions of Act 66-2014, as amended, *Special Fiscal and Operational Sustainability Act of the Government of the Commonwealth of Puerto Rico*, Act 3-2017, as amended, the *Act to Address the Economic, Fiscal, and Budgetary Crisis to Guarantee the Operation of the Government of Puerto Rico*, and/or Act 26-2017, as amended, the *Fiscal Plan Compliance Act*.



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Pursuant to Act 80-2020, any employee of the Government of Puerto Rico covered by Act 447-1951, and those covered by Act 1-1990 who are a part of the eligible Agencies, may become a participant in the Incentivized Retirement Program, subject to the criteria established below:

**Section 1. Agency Eligibility**

1. Participants of Act 447-1951 from every one of the Agencies that are a part of the system will be eligible for the Incentivized Retirement Program.
2. For participants under Act 1-1990, those Agencies established in Article 4(b) of Act 80-2020 will be considered eligible.
3. The Retirement Board and its components may postpone the participation of its Act 1-1990 employees in the Program until the outsourcing and restructuring established in Act 106-2017 is fully completed, in order to ensure continuity of the services to the participants and pensioners of the retirement systems without affecting implementation of current laws.

**Section 2. Employee eligibility**

1. Any participant under Act 447-1951 who meets the requirements below will be eligible for the Incentivized Retirement Program.
  - a. career employees in the public service; non-career employees entitled to reinstatement in a career position; non-career employees who are not entitled to reinstatement but meet the other requirements and, in turn, are making contributions to the Retirement System; or employees with a term appointment in accordance with a law. The non-career employee entitled to reinstatement should be reinstated in the career position before participating in the benefits of the Program.
  - b. is an employee in active service or enjoying any kind of leave authorized by the Agency.
  - c. has entered the System on or before April 1, 1990, or began to work with the Government of Puerto Rico as temporary or irregular employee before that date, was unable to make contributions to the System because of his or her labor status and was subsequently appointed to the career service under Act 1-1990, in addition to paying those years of service on or before June 30, 2013, in order to accrue years of service paid retroactively as of a date prior to April 1, 1990.
  - d. has not requested or received a reimbursement of his/her contributions.
  - e. has not elected to participate of the Retirement Savings Account Program created by Act 305-1999.



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- f. has made contributions to the System for a period of no less than twenty (20) years of service as of June 30, 2017.
2. Participants of Act 1-1990 from every one of the Agencies eligible under Article 4(b) of Act 80-2020, who meet the following requirements, will be eligible for the Incentivized Retirement Program:
  - a. career employees in the public service; non-career employees entitled to reinstatement in a career position; non-career employees who are not entitled to reinstatement but meet the other requirements and, in turn, are making contributions to the Retirement System; or employees with a term appointment in accordance with a law. The non-career employee entitled to reinstatement should be reinstated in the career position before participating in the benefits of the Program.
  - b. is an employee in active service or enjoying any kind of leave authorized by the Agency.
  - c. has entered the System under Act 1-1990, between April 1, 1990 and December 31, 1999.
  - d. has not requested or received a reimbursement of his/her contributions.
  - e. has not elected to participate of the Retirement Savings Account Program created by Act 305-1999.
  - f. has made contributions to the System for a period of no less than fifteen (15) years of service as of June 30, 2017.
3. The credited years of service and accrued contributions as of June 30, 2013, under the defined benefits structure, and the years of service and contributions made to the *Hybrid Defined Contribution Program* as of June 30, 2017, will be used to determine the years of service.
4. *Ineligible employees:* Participants who will not be eligible for the Incentivized Retirement Program are listed below:
  - a. those who hold elective positions, unless they are entitled to reinstatement in a career position;
  - b. agents of the Bureau of the Puerto Rico Police who belong to the rank and classified personnel system as high risk, to whom Act 81-2020, better known as the *Act to Provide a Dignified Retirement to the Member of the Rank System of the Police, Members of the Bureau of the Fire Department, Members of the Custody Officer of Puerto Rico, and others.*

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- c. employees who participate in other independent retirement systems, such as teachers, judges, and employees of the Electric Power Authority.
5. Origin of Funds: For purposes of eligibility to the Program, employees may be considered irrespective of the origin of the funds to defray the employee's position, provided participation of the employee in the Program can be exercised in compliance with the criteria provided in Act 80-2020, without affecting the applicable savings parameters and without generating additional cost of public resources from other sources. In the case of employees defrayed with federal funds, the Agency should assess whether participation of such employees in the Program is allowed under the terms and conditions for the receipt and use of said federal funds. If federal funds are not allowed for that purpose, the employees will be considered ineligible.

### **Section 3. Benefits of the Incentivized Retirement Program**

- 1. Participants of the Program covered by Act 447-1951, will receive the following benefits:
  - a. a lifetime retirement pension equivalent to fifty per cent (50%) of the highest yearly gross remuneration earned during any of the last three (3) prior to the time they enter the Program.
  - b. a monthly employer contribution of one hundred dollars (\$100) to the medical plan selected by the participant under Act 95-1963, as amended, known as the *Public Employees Health Benefits Act*, which will cease when the participant reaches sixty-two (62) years or age.
  - c. any other benefit the employee is entitled to as a pensioner of the Government of Puerto Rico under the provisions of Act 447-1951.
- 2. Participants of the Program covered by Act 1-1990 will receive the following benefits:
  - a. a lifetime retirement pension equivalent to fifty per cent (50%) of the highest yearly gross remuneration earned during any of the last three (3) prior to the time they enter the Program.
  - b. a monthly employer contribution of one hundred dollars (\$100) to the medical plan selected by the participant under Act 95-1963, as amended, known as the *Public Employees Health Benefits Act*, which will cease when the participant reaches sixty-two (62) years or age.
  - c. any other benefit the employee is entitled to as a pensioner of the Government of Puerto Rico under the provisions of Act 447-1951.

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3. The hybrid annuity under Act No. 3 of April 4, 2013, is replaced by the pension provided in this document.
4. For tax purposes, any income received by the participant of the Program from pension payments will be considered as if received as a pension granted by the Retirement System in accordance with the applicable provisions of Act 1-2011, as amended, known as the *Puerto Rico Internal Revenue Code of 2011*.
5. Every participant will be entitled to the payment of liquidation of regular vacation leave accrued as of the date of separation from service to enjoy the benefits of the Program, in accordance with the caps established by legislation or applicable regulations, free from the payment of income tax. In that sense, and pursuant to the current applicable legislation, participants will be entitled to liquidation up to a maximum of sixty (60) days accrued vacation leave, but will not be entitled to the liquidation of accrued sick leave because the current legislation establishes that said sick leave balances are not liquidated at the time the services cease, in accordance with the *Fiscal Plan Compliance Plan Act*, Act 26-2017.
6. The amounts necessary to amortize balances of loans with the System, the Association of Employees of the Commonwealth of Puerto Rico, Savings and Credit Unions, and the Cooperative Bank of Puerto Rico, will be deducted from the Income Received under the Program.
7. Participants may request that contributions for savings, insurance premium or any other concept legally allowed to public employees be deducted and withheld from the income they will receive from the Program.
8. Participants may request the transfer or disbursement of the benefits from the contributions made to the *New Defined Contributions Plan*, pursuant to the provisions of Article 3.8 of Act 106-2017, as amended.

#### **Section 4. General Provisions**

1. The employee's election to participate in the Incentivized Retirement Program will be final and irrevocable. It constitutes a total and absolute release and a waiver of rights from any actual or potential claim, based on: (i) the employment relation or termination thereof, under any applicable law; or (ii) actions that may be taken as a consequence of the implementation of the Program.
  - a. The effect of this release and the corresponding waiver of rights will be *res judicata*.
2. The Agencies must pay to each participant the total amount of the lifetime pension benefit granted under the Program beginning on the Effective Date.

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3. The Agencies must pay the benefits granted and the deductions made to the participant of the Program in the same way they would have had the participant remained as an employee, and will count them as a part of the employer's regular payroll. It is understood that the employer will pay the benefits under this Program for life as a part of its regular payroll and that the payment of these benefits will never become a part of the *Pay Go* payroll, established by Act 105-2017.
4. The Agencies must pay the employer's contribution to the medical insurance plan, in accordance with Articles 7a(2) and 7b(2) of Act 80-2020, as applicable.
5. The Agencies must discontinue contributions to the Unemployment Insurance of the Department of Labor and Human Resources and to the State Insurance Fund corresponding to the employee from the Effective Date on which the employee enters the Program.
6. Employers shall have no discretion to restrict an eligible employee's right to participate in the Program. However, the Agencies will be empowered to establish a Phased Plan for the retirement of the participants, so that the services rendered to the citizens are not affected. For such purposes, the Agencies reserve the right to retain in his/her position an employee who qualifies and applies for the benefits of the Program in order to ensure continuity of the operations and/or complete a task, entrustment, function, or training.
  - a. In such cases, the employee will not receive the benefits of the Program during the time the Agency utilizes the employee's services and will continue to receive the remuneration that corresponds to the position.
  - b. Once the retention period expires, the employee will enter the Program and receive the benefits to which he/she was entitled at the time he/she entered the Program.
  - c. No employer may retain an eligible employee who opts to enjoy the benefits of the Programs beyond December 31, 2022.
7. The positions of the participants who opt to join the Program will be frozen beginning on the date the employee separates from service. However, those vacant positions determined to be essential for the operation of the Agency will be filled. Each Agency will establish an internal procedure in its Retirement Plan with the criteria to define what are considered to be essential public services, strictly for purposes of Act 80-2020.
8. Participants who opt to enjoy the benefits of the Program will be ineligible to rejoin the public service for a period of seven (7) years.
  - a. Once that term has elapsed, the beneficiary will be able to work in the Agencies, pursuant to the employment provisions for pensioners under Act 447-1951.

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- b. The Agencies will be responsible to send to OATRH, the Public Service Qualification Board of the Department of Labor and Human Resources, and to the OMB the list of participants who joined the Program, who consequentially are disqualified to enter an Agency as employee.

## **C. Implementation of the Incentivized Retirement Program**

### **Section 1. RSA's Eligibility Certification**

1. The RSA, by prior evaluation, will identify the employees of the Agencies who qualify to participate in the Incentivized Retirement Program, according to the requirements of Article 5 of Act 80-2020 and Section 2 of Part B of this Circular Letter.
2. The RSA will send a *Register of Eligible Employees* to the Agencies, pursuant to the provisions of Act 80-2020, within a period of ten (10) business day from the date this Circular Letter is sent.
3. The Agency, through its coordinator of retirement affairs and the assistance of the RSA, will be responsible for providing an orientation to every employee eligible for the Program in relation with its benefits and criteria.
4. No Agency may grant benefits under this Program to an employee who has not been included as eligible in the *Register of Eligible Participants* provided by the RSA. Any transaction that grants benefits under this Program to a participant not included in the *Register of Eligible Participants* will be null.
5. Any employee who believes he or she is eligible for the Program, but does not appear on the Register of Eligible Participants or who appears but is classified under a law that does not apply, may fill out the Claim Form included as Annex II of this Circular Letter. It can be sent by electronic mail to [reclamacionesley80@retiro.pr.gov](mailto:reclamacionesley80@retiro.pr.gov).
6. The RSA reserves the right to modify the *Register of Eligible Participants* at any time if it obtains information or documents that may warrant an amendment to the *Register* for purposes of correction.

### **Section 2. Election Process**

1. Once the Agency receives the *Register of Eligible Participants* it will notify the employees eligible to apply for the Program. The notice should include a copy of Act 80-2020 and the Election Form, and should inform where it will be delivered.

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2. The employee must exercise the option to participate in the Program and fill out the *Election Form* within the Election Period of forty-five (45) business days, counted from the date this Circular Letter is sent. Delivery of the *Election Form* will irrevocably establish the employee's intention to participate in the Program and separate from employment to enjoy the benefits of the Program.
3. On the *Register of Eligible Participants* is received and the Election Period for the interested employees to join the Program has started, the Agencies may be separating from service those participants the Agencies deem can be separated at the earliest possible date, according to the payroll closings. However, the Agencies may wait for the Election Period to conclude to prepare a Phased Plan and determine the Estimated Separation Dates of the eligible participants.
  - a. Ordinarily, the payroll employees and retirement affairs coordinators should be the last employees to accept the benefits of the Program, in order for the Agency to fully comply with all the provisions of this Circular Letter and the effective implementation of the Program. Every Agency will make the corresponding determination in accordance with its particular circumstances.
4. The Agencies will be responsible for classifying those employees who provide essential services necessary to ensure the continuity of the operations and/or finish a task, assignment, function, or training, and in relation with which they will exercise their retention option, as provided in Article 10 of Act 80-2020. In addition, they will indicate in the *Election Form* the justification and the retention period, which will not exceed December 31, 2022, pursuant to part (c) of Article 4 of Act 80-2020 and Section 4, part B, of this Circular.
5. Any Phase Plan adopted, and the estimated separation dates, should be reasonable and may not be established arbitrarily or capriciously by the Agency. No participant should be retained longer than is truly necessary for purposes of transition, training, project completion, and/or to identify replacement personnel.
6. Once the election period ends, the Agencies should fully complete the *Fiscal Impact and Savings Form* included as Annex III of this Circular Letter. To compute the pension that the participant will receive once he/she enters the Program, the Agency will use the *Benefit Determination Formula* included as Annex IV of this Circular Letter.
7. The Agencies will be responsible for notifying those employees who presented their *Election Form* on time that they have joined the Program and the participant's effective date of entry into the Program.
  - a. The communication should also notify the employee whether the Agency reserves the retention option and the period during which it will be exercised, which cannot exceed December 31, 2022, pursuant to part (c) of Article 4 of Act 80-2020 and Section 4, Part B, of this Circular Letter.



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8. After the forty-five (45) business days of the Election Period have elapsed, the Agencies will have a term of thirty (30) days to remit to the RSA and the OMB the *Register of Eligible Participants* with the completed information on columns **AJ** and **AK**, the *Election Forms*, and the *Fiscal and Savings Impact Form*, duly completed, and the Phased Plan, if any. The means and form whereby the agencies will remit said documents to the RSA and OMB will be notified during the Election Period.

### **Section 3. Reorganization Measures**

Continued implementation of the reorganization measures for the Incentivized Retirement Program shall be carried out as follows:

1. *Retirement Plan.* The Agencies must prepare a Retirement Plan spelling out: (i) a description of the reorganization measures; (ii) positions that will be eliminated; (iii) position projected by the Agency should be filled in accordance with the provisions of Article 9 of Act 80-2020; (iv) a description of the essential tasks of positions that will not be eliminated; (v) identification of the positions over which the Agency will exercise the retention right and period. This plan may be required by the OMB, the RSA, FAAFAF, OATRH, and any other pertinent government entity.
2. *Budgetary Adjustment:*
  - a. In the case of Agencies whose budget is totally or partially paid out from the General Fund, the Agency's budget may be adjusted in accordance with the Retirement Plan, the provisions of the certified budget, and the Certified Fiscal Plan, and the funds necessary to meet the obligations of the Agency with the participants of the Program will be separated in an expenditure item.
  - b. In the case of Agencies whose partial or total budgets do not derive from the General Fund, the Municipalities, the Judicial Branch, and AEELA, it will be incumbent to the heads or governing bodies to take the necessary budgetary measures in accordance with the Retirement Plan and meet the obligations they are responsible for in relation with the participants of the Program.
3. *Management of vacant positions:*
  - a. The Agency will be responsible to eliminate the positions that become vacant as part of the administrative and operational reorganization measures established in its Retirement Plan.
  - b. However, as an exception, the Agency may fill those positions that become vacant and are determined to provide essential services and whose occupation has been informed in the Retirement Plan, as provided below.



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- i. Employees of the very Agency will be considered in the first place to fill the positions.
  - ii. If the position cannot be filled with a resource from the Agency, the transfer mechanism of the single employer in the public service will be considered, in accordance with the *Act for the Administration and Transformation of the Human Resources of the Government of Puerto Rico*, Act 8-2017.
  - iii. If the essential position cannot be covered through the transfer mechanism, new recruitment will be allowed through invitation among the public employees or outside the public service.
- c. Occupation of any vacant position through new recruitment should meet every one of the applicable legal and regulatory criteria. In addition, it is hereby provided that:
  - i. In the case of Agencies or entities of the Executive Branch, excluding the Municipalities, all new recruitment will require the approval of the OMB. Therefore, the corresponding application must be submitted individually for each position through the system for processing proposals.
  - ii. In the case of the Municipalities, any new recruitment must be carried out in accordance with the applicable provisions of Act 80-2020 and the provisions of Chapter VI of Act 107-2020, known as the *Puerto Rico Municipal Code*.
  - iii. The Judicial Branch and AEELA shall establish the mechanisms necessary to comply with the provisions of Article 9 of Act 80-2020, in relation with the management of vacancies and determined savings.

## **EFFECT**

The provisions of this Circular Letter will take effect immediately.



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### TRANSLATOR'S CERTIFICATE OF TRANSLATION

Translation from: Spanish (Puerto Rico) into English (US)

TARGEM Translations Inc.

I, PHILLIP BERRYMAN, ATA-certified Spanish-English #432118, acting as translator at TARGEM Translations Inc., a NEW YORK City corporation, with its principal office at 185 Clymer Street, Brooklyn, NY, 11211, USA, certify that:

the English translated document is a true and accurate translation of the original Spanish and has been translated to the best of my knowledge.

Original Document Name: **CC-NÚM-012-2020**

Signed this 16<sup>th</sup> day of December, 2021



Verify at [www.atanet.org/verify](http://www.atanet.org/verify)

A handwritten signature in black ink that reads 'Phillip Berryman'.

Phillip Berryman

